

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RUDY STANKO, individually and on
behalf of similarly situated prisoners,

Plaintiff,

vs.

JEFF BREWER, individually,

Defendant.

8:20CV302

**MEMORANDUM
AND ORDER**

This matter is before the court on remand from the United States Court of Appeals for the Eighth Circuit, to determine whether Plaintiff's amended complaint (Filing 1-4)¹ states a First Amendment claim upon which relief can be granted, or whether the amended complaint should be dismissed. *See* Fed. R. Civ. P. 12(b)(6). Because the parties did not address a possible First Amendment claim in the briefs they filed with reference to Defendant's motion to dismiss (Filing 4), the court will give them an opportunity to do so now.

Accordingly,

IT IS ORDERED:

1. Defendant shall have 21 days from today's date to file a supplemental brief in support of his motion to dismiss;

¹ This is the amended complaint that was filed in the District Court of Sheridan County, Nebraska, in Case No. CI 20-31, on or about June 29, 2020, and that is attached as Exhibit D to Defendant's notice of removal (Filing 1). It should not be confused with the (second) amended complaint that was filed in federal district court on or about September 4, 2020 (Filing 14). The (second) amended complaint was ordered stricken on October 8, 2020 (see Filing 21), and that ruling was affirmed by the Court of Appeals.

2. Plaintiff shall have 21 days after service of Defendant's brief to file a supplemental brief in opposition to Defendant's motion to dismiss; and
3. Defendant shall have 7 days after service of Plaintiff's response to file a supplemental reply brief, after which time the matter will be taken under submission by the court.

Dated this 11th day of August 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge